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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,333	01/23/2002	Eric Hoffman	K2T-8	4864

7590 03/24/2004

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EXAMINER

BUCZINSKI, STEPHEN C

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,333

Applicant(s)

HOFFMAN ET AL.

Examiner

Stephen C. Buczinski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9 March 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9 March 2004 has been entered.

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 1-6 and 8-13 are rejected under 35 U.S.C. 103 as being obvious over any one of Kacyra et al, Kozah et al, Ohishi et al, or 3rdTech.

These claims include limitations to a specific data rate for what is otherwise disclosed in Kacyra et al, Kozah et al, Ohishi et al, or 3rdTech. Since all four references teach 3D laser range imaging that meet the broad requirements of these claims to produce dimensions of the imaged target, to have generated the data points at a rate of “125,000 . . . every second” would have been a design choice well within the scope of Kacyra et al, Kozah et al, Ohishi et al, or 3rdTech to one ordinarily skilled in this art, since the only objective appears from the specification to give a photographic quality to the scan faster. No point of novelty per se has been attributed to this data capture rate in the original disclosure and no specific structure or steps proposed to achieve a data point scan rate of specifically 125,000 every second. 3rdTech specifically defines a 25K samples every second, but does not preclude a higher rate as an obvious variation of degree.

3. Claims 1-6 and 8-22 are rejected under 35 U.S.C. 112, first and second paragraphs, as the claimed invention is not described in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the same, and/or for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 14, line 6, “selecting” is misspelled. On line 7, “straight edges for a point” is not

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meaningful and is implausible. On lines 8 and 9 (as well in claim 15) "the straight edges' lines" has no antecedent basis and is implausible as above. On the last two lines "pairs" has not been defined and the whole concept is simply not understandable as presented. How are the "points" in the last line related to the previously claimed first through third "point"? Reference to the specification verbatim is of no value, as it is equally unclear.

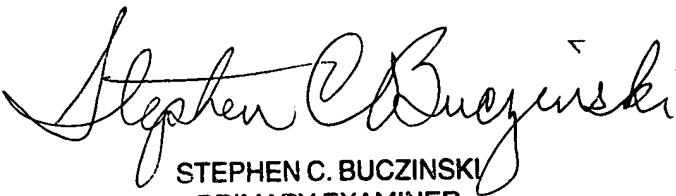
In claim 17, "as represented by a first pixel in the image" is not understandable.

4. The specification is objected under 35 U.S.C. 112, first paragraph as above in the preceding paragraph.

5. The drawing s are objected under 37 CFR 1.83 in that every feature claimed in claims in claim 14-22 must still be shown.

6. Any inquiry concerning this communication should be directed to Stephen C. Buczinski at telephone number (703) 305-1835. The examiner can normally be reached on Monday-Friday, 5:30 a.m.-2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza, can be reached at 703 306-4171. Faxes should be sent to 703 872-9326 or 872-9327. General application status information can be obtained from the receptionist at 703 308-1113.


STEPHEN C. BUCZINSKI
PRIMARY EXAMINER